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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,295	11/29/2001	Nils Alveby	32207	1433
23589	7590	11/08/2005	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	
DATE MAILED: 11/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/980,295

Applicant(s)

ALVEBY, NILS

Examiner

Aaron M. Dunwoody

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-13 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 5, 9 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings were received on 5/17/2005. These drawings are approved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, the phrase "egg-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "egg-like"), thereby rendering the scope of the claim(s) unascertainable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 3643630, Duncan.

In regards to claims 1 and 18, Duncan discloses a hose device (11) comprising a hose portion;

at least a first end portion;

a channel which extends along the hose device through the first end portion and the hose portion; and a transition portion which is located between the first end portion and the hose portion, wherein the hose device has flexible and elastic properties, wherein the first end portion of the hose device in a mounted state is arranged to be attached to a tubular connection member by having the connection member introduced in the channel, and wherein the channel extends through the transition portion and in a non-mounted state has a non-circular cross-section shape at the transition portion that the channel in the mounted state forms a substantially circular cross-sectional shape.

In regards to claim 2, Duncan discloses a tubular connection member having an end surface, which is obliquely cut, wherein the first end portion of the hose device is mounted to the connection member in such a way that the connection member extends into the transition portion.

In regards to claim 3, Duncan discloses a connection member, wherein the connection member has an outer surface, which seen in a cross-sectional view is substantially circular, and the first end is received on the connection member.

In regards to claim 4, Duncan discloses the channel in the non-mounted state having an egg-like cross-sectional shape.

In regards to claim 5, Duncan discloses the cross-sectional shape of the channel forming a first outward portion including a radius ( $r$ ) and a second outwardly extending portion.

In regards to claim 6, Duncan discloses the hose device being arranged to be located in such a rotary position in relation to the connection member that the second portion in the mounted state is directed toward the obliquely cut end surface.

In regards to claim 7, Duncan discloses the radius ( $r$ ) being substantially constant.

In regards to claim 8, Duncan discloses the channel having a longitudinal center axis, wherein a distance between the second portion and the center axis is larger than the radius seen in a cross-section through the transition portion.

In regards to claim 12, Duncan discloses the hose device, at least at the transition portion, having an outer surface, which seen in a cross-sectional view is substantially circular.

In regards to claim 16, Duncan discloses the hose device at the outer side being provided with grooves which extend in the longitudinal direction ( $x$ ) of the hose device over substantially the whole transition portion in such a way that the hose device has a tooth wheel-like shape seen in a cross-section through the transition portion.

In regards to claim 17, Duncan discloses the hose device being a teatcup liner and includes an upper portion configured for mounting in a shell of a teatcup and for receiving the teat of an animal therein.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan.

In regards to claims 10 and 11, Duncan discloses the claimed invention except for the first end portion including an end surface which has a chamfered portion; and the cross-sectional shape of the channel forming a first portion and a second portion, and wherein the second portion of the channel and the chamfered portion are located substantially straight after each other seen in the extension of the hose device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the first end portion with an end surface which has a chamfered portion; and the cross-sectional shape of the channel with a first portion and a second portion, and wherein the second portion of the channel and the chamfered portion are located substantially straight after each other seen in the extension of the hose device, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claim 13, Duncan discloses the claimed invention except for the hose device at the transition portion having a larger wall thickness than at the first end

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portion and the hose portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the hose device at the transition portion with a larger wall thickness than at the first end portion and the hose portion, since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

### ***Allowable Subject Matter***

Claim 5, 9 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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